

**BOARD OF SUPERVISORS**

**GILA COUNTY, ARIZONA**

Date: June 21, 2005

**JOSÉ M. SANCHEZ**

Chairman

**STEVEN L. BESICH**

Clerk of the Board

**TOMMIE C. MARTIN**

Vice-Chairman

By: Marilyn Brewer

Deputy Clerk

**SHIRLEY L. DAWSON**

Member

Gila County Courthouse  
Globe, Arizona

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PRESENT: Jose M. Sanchez, Chairman; Tommie C. Martin, Vice-Chairman; Shirley L. Dawson, Member (was not present in the room; however, she did participate via a telephone conference call); Steven L. Besich, County Manager/Clerk; Marian Sheppard, Chief Deputy Clerk; and, Bryan Chambers, 2<sup>nd</sup> Chief Deputy County Attorney.

The Gila County Board of Supervisors met in Regular Session at 10:00 a.m. this date. Bryan Chambers led the Pledge of Allegiance and Father Jay Luczak of Our Lady of the Blessed Sacrament Church delivered the Invocation.

Sarah White, Assistant Risk Manager, requested the approval of amendments to Rule 23.12 Workers Compensation Leave of Gila County's Merit System Rules and Policies which changes the procedures for time taken when receiving medical treatment during normal working hours, whereby the time will be charged to an employee's leave account. If eligible, the employee will be placed on Family Medical Leave. If the employee is released to light duty the County will provide light or modified duty if available, first within his/her originating department; if not available, the employee will be placed in another department. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously approved the amendments to Rule 23.12 Worker's Compensation Leave.

Steve Sanders, Public Works Division Deputy Director, requested the award of Call for Bids No. 041305-1 for center line and shoulder striping of pavement markings. He stated that six proposals were sent out and three were received back from Pavement Marking, Traffic Marking, and Traffic Safety. Mr. Sanders explained that the amount of center line to be striped was 222,500 lineal feet and the proposal was for a double stripe so it would be a total of 445,000 lineal feet. Two of the bidders understood the specifications but one did not; the low bidder was the one who did not understand. A fax was then sent out by the Public Works Division asking for clarification based on the double line. Two of the bidders stated their bid was based on the double line; however, the lowest bidder, Traffic Marking, stated that because their bid was not based on the double line, they requested that their bid be doubled, which caused them to no longer be the lowest bidder. Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously awarded Bid No. 041305-1 to Traffic Safety in the amount of \$32,535.00.

David Fletcher, Health and Community Services Division Director, requested authorization of the Chairman's signature on Contract No. E6306015 between the Arizona Department of Economic Security and Gila County, Community Action Program (CAP), to provide case management services in the amount of \$242,829.00 and community services in the amount of \$150,589.00, for a total of \$393,418.00. The term of the Contract is from July 1, 2005, to June 30, 2006. Mr. Fletcher stated that five years ago this Contract was released to the County on a Request for Proposal (RFP), which is a way to get funds in a competitive process. This current Contract has come to the County in the form of a Request for Application (RFA), which means the funds have been allocated and will be released when the application is received. The funds are based on population and poverty and are to be used for rent, utility and mortgage assistance to assist people in needy situations. The amount of \$150,589.00 can be used at CAP's discretion. Supervisor Dawson inquired if these funds are available for low-income housing residents in San

Carlos. Mr. Fletcher stated that these funds are available to all Gila County residents if they apply and qualify. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously authorized the Chairman's signature on Contract No. E6306015 in the amount of \$393,418.00.

Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously approved the removal of Items 5-G, 5-K and 5-Q from the Consent Agenda and to be placed on the Regular Agenda.

In reference to Consent Agenda Item 5-G, Joseph "Chuey" Eylicio, Gila County Juvenile Detention Center Unit Supervisor, requested the approval of an Intergovernmental Service Agreement (IGA) between Gila County, on behalf of the Gila County Juvenile Detention Center, and the Pascua Yaqui Tribe for housing Native American detainees at the Gila County Juvenile Detention Center. Chairman Sanchez inquired if this is a new Contract and not a renewal as noted on the Board's paperwork. Mr. Eylicio stated that at first it was his understanding that this was a renewal of a previous contract, but in conversation with the Attorney for the Tribe, it was determined that this is a new contract. Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously approved the IGA with the Pascua Yaqui Tribe.

In reference to Consent Agenda Item 5-K, John Andrew Hunter requested the approval of an Application for Extension of Premises/Patio Permit at Road Huggers Bar located in Claypool, Arizona, for the date of July 4, 2005. Marian Sheppard, Chief Deputy Clerk, advised that when an applicant applies for an Extension of Premises/Patio Permit, they must request if it is to be temporary or permanent. This Application is for a temporary permit. Steve Stratton, Public Works Division Director, wanted to verify that the location of the event on July 4<sup>th</sup> would be held on private property because in the past he has seen events being held in the road on County right-of-way property. Ms. Sheppard stated that she would contact the applicant and verify that the area being

temporarily extended would be held on property owned by Road Huggers and not infringe upon County property. Upon motion by Vice-Chairman Martin, seconded by Supervisor Dawson, the Board unanimously approved the Application for Temporary Extension of Premises/Patio Permit, contingent upon the extension being located within the owner's bar property.

In reference to Consent Agenda Item 5-Q (approval of finance reports/demands/transfers for the weeks of June 13, 2005, and June 20, 2005), Supervisor Dawson stated that because of some credit card charges, which may include Fly-A-Way Travel, being presented late for payment, she would abstain from voting. Upon motion by Vice-Chairman Martin, seconded by Chairman Sanchez, the Board approved the finance reports as noted above by a 2-1 vote. Supervisor Dawson abstained from voting.

Upon motion by Supervisor Dawson, seconded by Vice-Chairman Martin, the Board unanimously approved the Consent Agenda items (with the exception of Items 5-G, 5-K and 5-Q as noted above), as follows:

- A. Authorized the ratification of Chairman's signature on grant Solicitation Amendment No. 1 to Solicitation No. HP561263, Health Start Services, submitted by the Division of Health and Community Services to the Arizona Department of Health Services amending the due date and replacing two items in the special instructions portion of the grant application.
- B. Approved Amendment No. 4 to Contract No. HG354349 between the Arizona Department of Health Services, Tobacco Education/Prevention Program, and the Gila County Health and Community Services Division, Tobacco Free Environments Program, to continue said program from July 1, 2005, to June 30, 2006.
- C. Authorized the Chairman's signature on Contract No. 006-06 between the Arizona Department of Commerce and Gila County Health and Community Services Division, Housing Programs, to receive \$95,632.00 in Department of Energy and the Low Income Home Energy Assistance Program funding to

provide weatherization services to income-eligible Gila County residents for FY 2005-2006.

- D. Authorized the Chairman's signature on Contract No. 015-06 between the Arizona Department of Commerce and the Gila County Health and Community Services Division, Housing Programs, to receive \$22,800.00 in Southwest Gas Low Energy Conservation funding to provide weatherization services to income-eligible Gila County residents for FY 2005-2006.
- E. Authorized the Chairman's signature on Purchase Order No. 700287483 – Rev. D between Arizona Public Service and the Gila County Health and Community Services Division, Housing Services Department, to receive \$32,000 to provide weatherization services and bill assistance to eligible Gila County residents for Contract period June 30, 2005, to June 30, 2006.
- F. Authorized the Chairman's signature on Contract No. 551-05 between the Arizona Department of Housing and the Gila County Health and Community Services Division, Community Action Program, to receive \$63,986.00 for providing direct services to clients and \$8,000.00 in administrative funds for FY 2005-2006.
- G. Approved an Intergovernmental Service Agreement between Gila County, on behalf of the Gila County Juvenile Detention Center, and the Pascua Yaqui Tribe for housing Native American detainees. **(Note: This item was removed from the Consent Agenda and voted on separately, as noted above.)**
- H. Authorized the Chairman's signature on Bank of America Municipal Lease Agreement and Digital Imaging System Maintenance Agreement and Sales Order for one Panasonic copy machine for a period of 36 months, to be used by the Globe Sheriff's Department.
- I. Approved the appointments of Albert M. Porto as Claypool No. 2 precinct committeeman, Linda L. McCray as Payson No. 2 precinct committeeman, and Nan C. Lawler as Pine-Strawberry precinct committeeman to the Gila County Democratic Party.

- J. Approved the appointment of John Huffman as Judge Pro Tempore for Payson and Globe Regional Justice Courts for the balance of the 2005 calendar year.
- K. Approved an application submitted by John Andrew Hunter for an Extention of Premises/Patio Permit at Road Huggers Bar located in Claypool, Arizona, for the date of July 4, 2005. **(Note: This item was removed from the Consent Agenda and voted on separately, as noted above.)**
- L. Approved an Application for Fireworks Display submitted by Jim Grider of Phelps Dodge Miami Inc. to conduct a fireworks display on July 4, 2005, on the Phelps Dodge mining property.
- M. Approved a request by Cynthia Olvera to rent the Fairgrounds Exhibit Hall on November 11, 2006, for a wedding reception.
- N. Approved a request by Dean Schlosser of Classic Community Celebrations to change the date for the use of the Payson Gila County Complex for the Zane Grey Days, Arts and Crafts Fair, from October 8-9, 2005, to October 1-2, 2005.
- O. Approved the May 2005 monthly department activity reports submitted by the Globe Regional Justice Court, the Payson Regional Constable, and the Clerk of the Superior Court.
- P. Approved the personnel reports/actions for the weeks of June 13, 2005, and June 20, 2005.

**June 13, 2005:**

**Departure from County Service:**

- 1. Property Appraiser I – Assessor – 06-10-05 – General Fund  
Peggy Felten – Hire 04-21-03 – Resigned for personal reasons
- 2. Legal Secretary I – County Attorney – 06-17-05 – General Fund  
Amie Todd – Hire 07-26-04 – Resigned to attend school
- 3. Clerk/Receptionist – Administrative Services – 06-01-05 – General Fund  
Katie Kell – Temporary position

4. Juvenile Detention Officer I – Probation – 05-31-05 – General Fund  
Richard Heck – Hire 09-15-04 – Resigned for personal reasons
5. Juvenile Detention Officer I – Probation – 06-08-05 – General Fund  
Pamela Valencia – Hire 01-04-02 – Deceased
6. Laborer – Consolidated Roads – 05-20-05 – Consolidated Road Fund  
Matthew Thomas – Temporary position

Hire to County Service:

7. Clerk III – Recorder – 06-13-05 – General Fund - Crystal Slaughter
8. Plan Reviewer/Inspector III – Community Development – 06-13-05 –  
General Fund – Scott Buzan

Temporary Hire to County Service:

9. Laborer – Solid Waste Management – 06-13-05 – Enterprise Fund -  
Himanshu “Harry” Raj Ullal – 30 hours per week

Position Review:

10. Reclassification – Juvenile Detention Officer I to II – Probation – 06-13-  
05 – General Fund – Keith Dixon
11. Anniversary Date Increase – 06-13-05 – Frank Pontier

Request Permission to Post:

12. GEST Job Coach – Community Services – Position vacated by Gilbert  
Magana
13. Temporary Road Worker II – Pine Consolidated Roads

**SHERIFF’S PERSONNEL ACTION ITEMS**

Departure from County Service:

14. Detention Officer – Globe S.O. – 06-07-05 – General Fund - Thomas  
Lease – Hire 04-18-05 – Resigned for other employment

Temporary Hire to County Service:

15. Deputy Sheriff – Emergency Response – 06-13-05 – Emergency  
Response Fund - Donald Johnson

Departmental Transfer:

16. Deputy Sheriff – Globe S.O. – 06-13-05 – General Fund - Keith

Thompson – Transfer to position vacated by Joey Cruz

**June 20, 2005:**

Departure from County Service:

1. Tax Specialist/Cashier – Treasurer – 06-17-05 – General Fund  
Sherry Jiminez – hire 11-18-02 – Resigned – leaving area
2. REPAC Government Liaison – Community Services – 06-30-05 – Grant  
Fund - Sheriff Ashworth – temporary position
3. Clerk – Clerk of Superior Court – 04-29-05 – Document Conversion Fund  
Felicia Henson – temporary position

Hire to County Service:

4. Legal Secretary I – County Attorney – 06-01-05 – General Fund  
Tamora Zappela – replaces Kerri Brasher
5. Legal Secretary I – County Attorney – 06-20-05 – General Fund  
Minda Thompson – replaces Amie Todd

Temporary Hire to County Service:

6. Clerk – Public Fiduciary – 06-27-05 – General Fund - Stacy Lopez
7. On-Call Detention Officer – Probation - 06-16-05 - General Fund  
Rita Westerfield, Pedro Madrid, Oscar Peace, Terry Lemley, Gio Terrazas

Departmental Transfer:

8. Deputy Probation Officer I to Unit Supervisor – Probation – 06-27-05 –  
Diversion Intake to General Fund – Cynthia Romance

Position Review:

9. Merit Increase - Director – Economic Development – 06-27-05 –  
Economic Development Fund - Gerald Scott Flake

**SHERIFF'S PERSONNEL ACTION ITEMS**

Departure from County Service:

10. Detention Officer – Globe S.O. – 06-14-05 – General Fund - Bill Kent –  
hire 07-17-03 – Resigned – reason unknown

Departmental Transfer:

11. Deputy Sheriff to Deputy Sheriff Supervisor – Globe S.O. – 06-13-05 –



Grant Fund – Dennis Buller

Q. Approved the finance reports/demands/transfers for the weeks of June 13, 2005, and June 20, 2005. (separate handout). **(Note: This item was removed from the Consent Agenda and voted on separately, as noted above.)**

**June 13, 2005:**

\$514,477.34 was disbursed for County expenses by voucher numbers X145607 through X145700, X368984 through X369099, X369102 through X369150, and X369152 through X369332. The hand-issued warrants listing is as follows: voucher number X145605 in the amount of \$998.68 and voucher number X145606 in the amount of \$337.47.

**June 20, 2005:**

\$660,429.31 was disbursed for County expenses by voucher numbers X145701 through X145857, X145859, X145868, X369335 through X369407, and X369409 through X369652. The hand-issued warrant listing is as follows: voucher number X369334 in the amount of \$984.78.

At this time each Board member and the Chief Administrator were presented the opportunity to give a brief summary of current events as allowed by A.R.S. §38-431.02(K). Steve Besich, County Manager/Clerk, requested that

two written items be placed in the minutes as an official record, namely: 1) a letter addressed to Honorable Joe Sanchez, Chairman, dated June 14, 2005, from Daisy Flores, Gila County Attorney and 2) a letter addressed to Mr. Bill Taylor of KQSS-FM Radio, dated June 17, 2005, from Daisy Flores, Gila County Attorney. The main body of the first letter dated June 14, 2005, from Daisy Flores to Chairman Sanchez is as follows:

This letter is to formally follow-up on the issue of the "one-time bonus" paid to Mr. Besich in December of 2002. Mrs. Dawson, during our May 3, 2005 meeting of the Board of Supervisors, brought to my attention and the board's attention that this bonus was not repaid as I had previously requested. If you recall, prior to the review by my office in 2003 of the propriety of "one-time bonus or pay adjustments," it was believed to be an appropriate practice to compensate employees by this method; however, upon our review of this matter it was determined this was an inappropriate method of compensation. We also

determined that it did not appear there was any intention on the part of any employee or board member to wrongfully obtain any benefit, but rather it was an improper procedure employed to compensate employees for work done or to be performed. As there was no wrong-doing by the employees, but rather an improper procedure employed, I requested those compensated in 2002 by such method repay any monies received beyond their salary. I further met with then County Administrator, John Nelson, and then Chairman of the Board, Cruz Salas, on May 1, 2003, and confirmed by letter the method of repayment of the monies improperly paid. It was concluded that Steve Besich, who at the time was not a county employee, was also to be required to repay any monies.

Thereafter, I and my then civil deputy met with Steve Besich and he showed us some documentation that Mr. Besich had been appointed by the Board to fill certain positions within the county that were beyond his job description. Based on my prior civil deputy's review of the Attorney General's position on this type of dual employment, we requested Mr. Besich provide proof that he was in fact appointed to additional positions for the county and that he did perform additional work beyond his normal work duties. I requested this documentation be reviewed and if established he had performed additional duties beyond his job description, then repayment would not be necessary as this would be a justified compensation.

The Attorney General noted in a 1970 opinion that "A.R.S. § 38-601: *do[es] not necessarily prohibit dual compensation for two separate public positions* provided the two positions are not incompatible with each other within the meaning of Coleman v. Lee, 58 Ariz. 506, 121 P.2d 433, and provided the additional compensation is not payable for the performance of the regular duties of the first office within the meaning of Pima County v. Anklam, 48 Ariz. 248, 61 P.2d 172. However, where a public officer or employee seeks to collect additional compensation from public funds for performance of the same work or duties, § 38-601 prohibits such extra compensation." Atty.Gen.Op. No. 70-7-L (emphasis added).

It was my understanding at the time Mrs. Dawson voiced her concerns that such documentation was provided and all monies had been repaid from the other employees involved. Upon inquiry it appears at this time that as agreed with my office the monies paid to the other employees has been fully repaid and Mr. Besich did provide proof of his appointment and additional work done. As to Mr. Besich, while it is evident he did perform additional work, if at the time he was appointed to such positions it had been agreed he would be compensated for such additional duties, such pay increase would have been an appropriate payment of public funds. As done here, however, an after the fact payment is not permissible and the monies must be repaid. Pursuant to Ariz. Const. Art. 4, pt. 2, § 17, the Legislature, and as applied to the County, is restricted in making payments for services rendered under such circumstances: The Legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into, nor shall the compensation of any public officer, other than a justice of the peace, be increased or diminished during his term of office. . . . (emphasis added).

As the payment occurred after Mr. Besich performed the work and without some agreed compensation plan, the payment is improper and he must repay the monies. I have copied the personnel department on this letter and I am requesting they develop a repayment plan within the next 30 days to ensure these funds are returned to the county. I am confident this matter will be resolved expeditiously; however, should the monies not be returned it is my duty to take further action to ensure the return of county funds. If you have any questions or concerns, please do not hesitate to contact me.

The main body of the second letter dated June 17, 2005, from Daisy Flores to Mr. Bill Taylor is as follows:

You have requested information concerning the status of the investigation into the monies that were paid as a "bonus" to Steve Besich, John Nelson and Lionel Martinez. We are happy to provide such information, as in any other matter wherein there is information which we are legally able to disclose to the public. As offered by you, I would request that you make my entire response available to readers of

your website and listeners of your broadcast. Unfortunately, in previous situations you have not given my office the opportunity to respond or comment to your commentary or questions. Thus, in many prior instances, this has led to erroneous information about this office and other County offices being reported. Based on your current request, I am hopeful you will continue to make inquiry as you have in this situation and we may work together to better inform our community.

As requested by me over two years ago, Mr. Nelson and Mr. Martinez have repaid all of the monies given in their bonuses. An issue arose with regard to whether Mr. Besich had preformed duties additional to his job description and thus, pursuant to the Attorney General's opinion on such dual employment, could have lawfully received additional compensation. That issue has been thoroughly researched and our office has advised the Board of Supervisors that even though Mr. Besich did perform additional work, he could not be paid after the fact for that work as such dual employment would require an upfront agreement on additional pay. The Board of Supervisors and Mr. Besich were advised that he would have to pay the \$5,000.00 back in full with all deliberate speed. Upon my inquiry on this date, such money has been repaid to the county.

As to your question with regard to whether interest should be required to be paid to the County, we have determined that would not be appropriate. At the time of the payment of the monies it was not believed by either the County or the recipients that the process by which the bonus was given was inappropriate. By letter in 2003 I notified the Board that this process was inappropriate and it has been discontinued. Simply, while such a process is common in the civilian world, a county employee's salary cannot be increased by a one-time bonus as done here. There is no reason to punish these employees by taking additional monies out of their pockets when they engaged in no intentional wrongdoing. If the monies are repaid in full, the County and the law will be satisfied.

I appreciate the opportunity to respond to your inquiry and I look forward to your continued interaction with my office to assist in your accurate and fair reporting of such matters.

There being no further business to come before the Board, Chairman Sanchez adjourned the meeting at 10:42 a.m.

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Jose M. Sanchez, Chairman

ATTEST:

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Steven L. Besich, County Manager/Clerk